

REMARKS

Applicants respectfully request reconsideration and allowance in view of the foregoing amendments and the following remarks. Applicants amend claims 1, 10-12, and 17 without prejudice or disclaimer.

Rejection of Claims 1 and 3-17 Under 35 U.S.C. §103(a)

The Office Action rejects claims 1 and 3-17 under 35 U.S.C. §103(a) as being unpatentable over De Brabander (U.S. Patent Publication No. 2004/0243387) ("De Brabander") in view of Yuschik (U.S. Patent No. 7,139,706) ("Yuschik"). Applicants traverse this rejection. Applicants amend claims 1, 10-12, and 17 to clarify the two dimensional limitation and recite a no more than two-dimensional graphical representation. However, Applicants make additional arguments that one of skill in the art would have had insufficient motivation to combine De Brabander and Yuschik under a preponderance of the evidence standard.

The key to supporting any rejection under 35 U.S.C. 103 is the clear articulation of the reason(s) why the claimed invention would have been obvious. The Supreme Court in *KSR International Co. v. Teleflex Inc.*, 550 U.S. ___, ___, 82 USPQ2d 1385, 1396 (2007) noted that the analysis supporting a rejection under 35 U.S.C. 103 should be made explicit. The Federal Circuit has stated that "rejections on obviousness cannot be sustained with mere conclusory statements; instead, there must be some articulated reasoning with some rational underpinning to support the legal conclusion of obviousness." *In re Kahn*, 441 F.3d 977, 988, 78 USPQ2d 1329, 1336 (Fed. Cir. 2006). See also *KSR*, 550 U.S. at ___, 82 USPQ2d at 1396 (quoting Federal Circuit statement with approval).

If the examiner determines there is factual support for rejecting the claimed invention under 35 U.S.C. 103, the examiner must then consider any evidence supporting the patentability

of the claimed invention, such as any evidence in the specification or any other evidence submitted by the applicant. The ultimate determination of patentability is based on the entire record, by a preponderance of evidence, with due consideration to the persuasiveness of any arguments and any secondary evidence. *In re Oetiker*, 977 F.2d 1443, 24 USPQ2d 1443 (Fed. Cir. 1992). The legal standard of "a preponderance of evidence" requires the evidence to be more convincing than the evidence which is offered in opposition to it. With regard to rejections under 35 U.S.C. 103, the examiner must provide evidence which as a whole shows that the legal determination sought to be proved (i.e., the reference teachings establish a *prima facie* case of obviousness) is more probable than not. MPEP 2142.

If a proposed modification would render the prior art invention being modified unsatisfactory for its intended purpose, then there is no suggestion or motivation to make the proposed modification. *In re Gordon*, 733 F.2d 900, 221 USPQ 1125 (Fed. Cir. 1984). MPEP 2143.01.V.

With these principles in mind, we turn to the case at hand. The Office Action cites on page 6 that it would have been obvious to one of skill in the art to use the invention of De Brabander to generate the grammar model for a spoken dialog application and call flow as taught by Yuschik. However, blending Yuschik and De Brabander in the manner proposed in the Office Action would change the immediate, real-time feedback principle of operation of De Brabander and would render the prior art unsatisfactory for its intended purpose because of inconsistencies in testing. Blending these references in this way swaps out the immediate feedback of De Brabander for the slow feedback (i.e. testing) of Yuschik, which occurs in two cycles of gathering test data from a target community.

De Brabander teaches an approach which tests fresh changes to a 3D representation of a grammar by instantaneously reparsing a corpus of example sentences. De Brabander, abstract.

One stated purpose of De Brabander is to yield immediate real-time statistical feedback on parsability. De Brabander, paragraph [0006]. In fact, De Brabander specifically teaches away from non-immediate feedback on changes to a model because it is a “tedious task full of dangers to make mistakes.” De Brabander, paragraph [0002].

In contrast to the instantaneous approach of De Brabander, Yuschik teaches not only a first round of testing with subjects from a target community, but also a second round of testing with subjects from the target community in order to design a voice activated user interface. Yuschik, col. 3, lines 6-13. The manual testing of Yuschik is time intensive and is in no way instantaneous or immediate. As an example FIG. 5 of Yuschik, reproduced below, shows a long table of testing questions for use with the invention of Yuschik.

A LIST OF THE VOCABULARY TEST QUESTIONS IS GIVEN BELOW. THE FIRST WORD IN THE BRACKET EXPRESSES THE UNDERLYING CONCEPT. THOUGH NOT NECESSARILY, THE ANSWER IT IS EXPECTED THAT KNOWING OF THIS WORDS BE GIVEN IN RESPONSE TO THE QUESTION THAT FOLLOWS.

PLEASE LISTEN TO THE FOLLOWING QUESTIONS, THEN SAY YOUR ANSWER AFTER THE TONE. SAY THE WORDS OR WORDS THAT YOU WOULD USE TO COMMAND A COMPUTER.

1. [SPEECH] WHEN PEOPLE CALL YOU AND ARE FORWARDED TO YOUR ANSWERING SERVICE, THEY HEAR A MESSAGE. YOU HAVE RECORDED IT ON A TAPING MACHINE. WHAT DO YOU CALL THE MESSAGE THEY HEAR?
2. [RANDOM] YOU HAVE A MESSAGE AND NOW YOU WOULD LIKE TO STOP AND START OVER. WHAT DO YOU SAY?
3. [TUTORIAL] WHEN YOU FIRST USE THE SERVICE, YOU HEAR A DESCRIPTION OF THE SERVICE WITH INSTRUCTIONS ON HOW TO USE IT. WHAT WOULD YOU CALL THIS DESCRIPTION?
4. [FORM] IF YOU HAVE A FORM OR DOCUMENT IN YOUR MANUAL WHICH YOU WOULD LIKE TO PUT ON A PAPER, WHAT WOULD YOU SAY TO DO IT?
5. [PASSWORD] TO MAKE SURE THAT ONLY YOU ARE ALLOWED TO LISTEN TO YOUR MESSAGES, YOU MAY USE A SPECIAL FOUR DIGIT NUMBER TO PROTECT YOUR MANUAL. WHAT WOULD YOU CALL THAT NUMBER?
6. [SAVE] YOU LISTENED TO A MESSAGE AND WANT TO STORE IT. WHAT WOULD YOU SAY?
7. [CALL] WHAT IS YOUR PERSONAL IMPORTANT MESSAGE AND WHAT IS THE SERVICE TO CALL TO THE PERSON BACK IMMEDIATELY. WHAT WOULD YOU SAY TO DO IT?
8. [INTERLUPT] WORDS YOU START LISTENING TO A MESSAGE IN YOUR MANUAL, AND DON'T WANT TO HEAR THE REST OF IT. WHAT WOULD YOU SAY TO INTERRUPT THE MESSAGE?
9. [RETRIEVE] WHEN YOU HAVE A TAPED MESSAGE IN YOUR MANUAL, WHAT WOULD YOU SAY TO HEAR THE MESSAGE?
10. [MANUAL] YOU FINISHED LISTENING TO YOUR MESSAGES. WHAT WOULD YOU SAY TO GO BACK TO THE BEGINNING OF THE SERVICE?
11. [PERSONAL] WHEN ENTERING TELEPHONE NUMBERS INTO THE SERVICE, WHAT WOULD YOU SAY WHEN YOU HAVE ENTERED ALL THE NUMBERS?
12. [HELP] YOU HAVE HAVING DIFFICULTY USING THE SERVICE. WHAT DO YOU SAY TO LEARN MORE?
13. [RESEND] YOU WANT TO SEND A COPY OF YOUR MESSAGE TO A MESSAGE AND WANT SOMEONE ELSE TO GET IT. WHAT WOULD YOU SAY TO DO THIS?
14. [DELETE] YOU HAVE LISTENED TO A MESSAGE AND DON'T WANT IT ANY MORE. WHAT WOULD YOU SAY TO GET RID OF IT?
15. [HANG UP] YOU ARE LISTENING TO A MESSAGE THAT IS NOT VERY USEFUL. YOU WANT TO JUMP TO THE END. WHAT WOULD YOU SAY?
16. [RECORD] YOU WANT THE SERVICE TO REMEMBER WHAT YOU WANT TO SAY. TO IT. WHAT WOULD YOU SAY?
17. [CHANGE] YOU WANT TO CHANGE THE NUMBERS ARE LISTED IN YOUR SERVICE. YOUR FRIEND ASKED FOR A NEW TELEPHONE NUMBER. WHAT DO YOU SAY TO REVISE YOUR LIST?
18. [ADD] YOU WANT TO PUT SOME NEW INFORMATION ON A LIST. WHAT WOULD YOU SAY?
19. [NEW] SUBSCRIBER SERVICE IS YOUR FIRST TIME USING THE SERVICE. YOU WANT TO PERSONALIZE YOUR DETAIL DATA. WHAT WOULD YOU SAY?
20. [RENAME] YOU WANT TO ENTER A NUMBER WHERE A MESSAGE IS TO BE SENT. WHAT DO YOU CALL THIS NUMBER?
21. [SEND] YOU HAVE RECORDED A MESSAGE. WHAT DO YOU SAY TO HAVE IT TRANSMITTED?
22. [REPLY] YOU RECEIVED A MESSAGE, AND WANT TO SEND A MESSAGE BACK TO THAT PERSON. WHAT WOULD YOU SAY TO DO THIS?
23. [SCHEDULE] YOU HAVE A MESSAGE YOU WANT DELIVERED IN THE FUTURE. WHAT WOULD YOU SAY TO PROGRAM THE DELIVERY TIME?
24. [NAME] YOU WANT TO HEAR YOUR NAME WHEN THEY READ A MESSAGE TO YOUR MANUAL. WHAT DO YOU CALL YOUR RECORDING?
25. [REPLY] YOU HAVE A LIST OF NAMES STORED IN THE SERVICE. WHAT WOULD YOU SAY TO HEAR ALL OF THEM?
26. [DELETE] YOU WANT TO DELETE A MESSAGE FROM THE BASE AND TIME IT WAS RECEIVED. WHAT WOULD YOU PREFER TO CALL THIS, THE HEADER OR ENVELOPE?
27. [REPLY] YOU WOULD LIKE TO ASK FOR A REPLY BACK FROM YOUR MESSAGE. WHAT WOULD YOU SAY TO DO THIS?
28. [REPLY] WHAT WOULD YOU PREFER YOUR ENVELOPE OR HEADER?
29. [OPTIONS] WHAT ACTIONS WOULD YOU PREFER TO SAY. WOULD YOU OPTIONS OR COMMANDS GETTING?

FIG. 5

It is manifestly evident that administering this list of lengthy questions to multiple subjects from a target community at two different occasions would not be instant. A test based on these questions would indeed take a substantial period of time to prepare and administer to subjects from a target community, as taught in Yuschik. De Brabander's advantage of immediate real-time statistical feedback on parsability in a graphical environment would be destroyed if blended with the two rounds of manual testing with Yuschik. For each fresh change to a model in the approach of De Brabander, Yuschik's approach for generating the grammar model for the spoken dialog application and call flow would cause delays which cut directly against the real-time results required in the user interface of De Brabander.

For at least these reasons, Applicants submit that one of skill in the art would have had insufficient motivation to combine Yuschik and De Brabander under a preponderance of the evidence standard, keeping in mind that the evidence against the obviousness to combine need only be slightly weightier than the evidence in favor of obviousness to combine. Accordingly, Applicants submit that claims 1, 10-12, and 17 and their respective dependent claims are patentable over Yuschik and De Brabander and respectfully request that this rejection be withdrawn.

CONCLUSION

Having addressed all rejections and objections, Applicants respectfully submit that the subject application is in condition for allowance and a Notice to that effect is earnestly solicited. If necessary, the Commissioner for Patents is authorized to charge or credit the **Novak, Druce & Quigg, LLP, Account No. 14-1437** for any deficiency or overpayment.

Respectfully submitted.

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By:  _____

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